bailor is liable for injuries resulting from the defective condition of the thing bailed, whether known or unknown, if with the exercise of due care the defect could have been discovered. *Moriarty* v. *Porter,* 49 N. Y. Supp. 1107. In *Coughlin* v. *Gilleson,* [1899] 1 Q. B. 145, a gratuitous lender of a donkey engine was held not liable for injuries caused from defects of which he was not aware, and in *McCarthy* v. *Young,* 6 Hurl. & N. 329, a gratuitous bailor of a scaffold was not liable for an injury to the borrower's servant caused by a defect unknown to the owner. The American authorities on the point seem confined to the case of *Gagnor* v. *Dana,* 69 N. H. 264, holding the bailor not liable for injuries caused by unknown defects in a staging. See *infra,* p. 108.

COMMON CARRIERS—TAXICAB SERVICE.—The plaintiff engaged a taxicab awaiting employment at a street corner and upon reaching his destination was injured in alighting. In a suit upon an accident policy stipulating double liability if injured "while on a public conveyance provided by a common carrier for passenger service," *held,* the company owning the cab was a common carrier of passengers and the cab was a public conveyance. *Anderson* v. *Fidelity and Casualty Co.* (N. Y., 1920), 127 N. E. 584.

A common carrier of passengers is one who undertakes for hire to carry all persons indifferently who may apply for passage so long as there is room and there is no legal excuse for refusing. *Shoemaker* v. *Kingsbury,* 12 Wall. (U. S.) 369. In the principal case the holding out was evidenced by the taxicab company sending its cabs along the streets to look for "fares." If a carrier of goods professes to serve all indiscriminately, although he does not do so, he is a common carrier and not a private carrier. *Lloyd* v. *Haugh,* 223 Pa. St. 148. Persons may be common carriers although they have no regular tariff of charges. *Jackson Architectural Iron Works* v. *Hurlbut,* 158 N. Y. 34. Or make no charge to the particular passenger. *Norton* v. *Western R. R. Corporation,* 15 N. Y. 444. The service may be limited in any way so long as it is available to all who choose to use it. Although the carrier offers to serve all who apply, persons are not passengers until their offer to become passengers is accepted expressly or impliedly by the carrier. *Bricker* v. *Philadelphia and Reading Railroad Co.,* 132 Pa. St. 1; *Warren* v. *Fitchburg Railroad Co.,* 8 Allen (Mass.) 227. It would seem therefore, that although the relation of carrier and passenger is not established until acceptance of the passenger's offer to employ, the status of the carrier as such is created by the offer to carry indiscriminately. The proprietors of livery stables, letting out cabs with drivers, are not common carriers *per se. Stanley* v. *Steele,* 77 Conn. 688; *Payne* v. *Halstead,* 44 Ill. App. 97. A corporation is a common carrier or not depending upon the powers exercised rather than the powers conferred and where it carries passengers and goods between railroad terminals and hotels and also does a garage business with individuals it is a common carrier as to the terminal and hotel business but not as to the garage business. *Terminal Taxicab Co.* v. *District of Columbia,* 241 U. S. 252. The principal consequences of the status of common carrier of passengers are (1) the duty to carry all who apply unless legally excused, and (2) to exercise the highest degree of care and foresight possible in the selection and manipu-

lation of the means employed. It is submitted that the true test for the existence of the former duty is the "holding out" whereas the true test for the existence of the latter duty is the exclusive control over the selection and manipulation of the means employed. Where the question of common carrier or not, arises collaterally, as in the principal case and in the interpretation of statutes, the "holding out" would seem the proper test. Where the question arises to determine the duty of care, as in the passenger elevator cases, the latter test is usually applied and the former ignored. It follows however, that it is error to hold, as has been done in many cases, the elevator a common carrier, but correct to hold the operator to the same duty of care as common carriers of passengers. In *Seaver* v. *Bradley,* 179 Mass. 329, a correct result was reached in holding that the owner of an elevator was not a common carrier. The question was whether a public statute, giving a remedy for the loss of life of a passenger by reason of the legligence of common carriers of passengers, could be invoked. The "holding out" test was correctly applied. On principle, since they have the same exclusive control, the duty of care of carriers for hire should be the same as the duty of care of common carriers of passengers. Whether a conveyance is engaged on the street or at a garage should make no difference. Accord with principal case are *Van Hoeffen* v. *Columbia Taxicab Co.,* 179 Mo. App. 591; *Primrose* v. *Casualty Co.,* 232 Pa. 210.

CONSTITUTIONAL LAW—STATUTE REGULATING RENTS.—In a case involving the validity of a rent statute in the District of Columbia intended to prevent rent profiteering during the period of the war, *held,* that since this statute favored the landlords with unrented, or building, apartments, the act was unconstitutional because discriminatory. *Willson* v. *McDonnell,* 265 Fed. 432.

Since the limitations on the legislative power of Congress as to the District of Columbia are the same as those to which the state legislatures are subject in regulating businesses in their respective commonwealths, the real question involved is whether or not the business of renting houses is "affected with a public interest," the basis upon which all regulation is said to rest. *Munn* v. *Illinois,* 94 U. S. 113; *German Alliance* v. *Lewis,* 233 U. S. 389. In the instant case a decision as to whether the business of renting of houses and apartments was so affected was unnecessary inasmuch as the statute was discriminatory; but since rent statutes have been passed in several states, such a decision as the present is a mere postponement of the necessity of deciding the fundamental question. For a full discussion as to when businesses may be said to be "affected with a public interest," see "Price Regulation under the Police Power," *supra,* p. 74.

CORPORATIONS—NO-PAR VALUE STOCK—VALUATION FOR FRANCHISE FEE PURPOSES.—A corporation was organized in Delaware under an act permitting corporations to issue stock without any nominal or par value, the statute stipulating that for franchise fee purposes such no-par value stock shall be taken at the par value of $100. After qualifying as a foreign corporation to do business in Michigan, the corporation objected to paying its franchise fee